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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/812,890	03/21/2001	Dietmar Mirsch	1748X/49774	1144

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EXAMINER

SCALTRITO, DONALD V

ART UNIT	PAPER NUMBER
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1745

6

DATE MAILED: 10/15/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/812,890

Applicant(s)

MIRSCH ET AL.

Examiner

Donald V Scaltrito

Art Unit

1745

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on papers filed on 21 March 2001.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 March 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All   b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)                      4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)                      5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_                      6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

The term "heatable" in Claims 1-7 is a relative term that renders the claim indefinite. The term "heatable" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. Since Claim 8 is dependent upon Claim 7, it is also rendered indefinite.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in-

(1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effect under this subsection of a national application published under section 122(b) only if the international application designating the United States was published under Article 21(2)(a) of such treaty in the English language; or

(2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that a patent shall not be deemed filed in the United States for the purposes of this subsection based on the filing of an international application filed under the treaty defined in section 351(a).

Claims 1, 2 & 4-8 are rejected under 35 U.S.C. 102(e) as being anticipated by Katoh et al.

(U.S. Patent No. 6,124,052).

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Katoh et al. disclose a solid polymer electrolyte fuel cell system that includes a water-lubricated compressor that supplies reactant gases to the anode and cathode. With respect to Claim 1, Katoh et al. teach a humidification means for humidifying reactant gases wherein the humidification means comprise water-lubricated compressors (column 2, lines 19-24). The Examiner would like to point out that the water-lubricated compressors are being interpreted as humidification units. The water is supplied to the water-lubricated compressors by a pump (see Figure 1 of this reference). Although not specifically disclosed, one with ordinary skill in the art would know that water moved from the pump to the compressors would have to travel through some conduit, i.e., pipes. The Examiner would also like to point out that, in accord with the rejections made above under 35 U.S.C. 112(2), all matter is "heatable." With respect to Claim 2, Kotah et al. teach the use of water separators, i.e., a unit for extracting water (see Figure 1 or 2). With respect to Claim 4, Kotah et al. disclose that "heatable" media conduits are disposed downstream of the fuel cell unit (Figure 1). With respect to Claim 6, Kotah et al. teach a "heatable" media conduit that supplies exhaust water extending from the fuel cell unit to a water tank. With respect to Claim 7, Kotah et al. teach a "heatable" conduit for supplying air to the cathode with a water-lubricated compressor disposed within the conduit wherein a second conduit provides water from the water tank. With respect to Claim 8, Kotah et al. teach water separators disposed with the conduits that supply air and fuel to the fuel cell unit. This reference, therefore, anticipates Claims 1, 2 & 4-8 of the current application.

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*Allowable Subject Matter*

Claim 3 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The prior art of record makes no mention of media carrying conduits that possess sections that are electrically heatable.

*Conclusion*


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald Scaltrito, whose telephone number is 703.305.4926. The examiner can be reached in his office on Monday-Friday between the hours of 9am to 6pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Patrick Ryan, may be reached at 703.308.2383. The official fax number for the organization where this application or proceeding is assigned is 703.305.3599.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703.308.0661

Donald Scaltrito  
Patent Examiner  
Art Unit 1745  
October 9, 2002

DVS

  
CAROL CHANEY  
PRIMARY EXAMINER